UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,585	02/05/2001	E. Stephen Crandall	105136.01	9273

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EXAMINER
BAUGH, APRIL L

ART UNIT	PAPER NUMBER
2141	

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Office Action Summary	09/775,585	CRANDALL, E. STEPHEN	
	Examiner	Art Unit	
	April L Baugh	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-7,9,10,14 and 16-23* is/are pending in the application.

    4a) Of the above claim(s) *2,8 and 15* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-7,9,10,14 and 16-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant amended claims 1, 3, 9, 11, 14, and 24, and canceled claims 2, 8, and 15, therefore

claims 1, 3-7, 9-10, 14, and 16-23 are now pending.

Response to Arguments

1.   Applicant's arguments with respect to claims 1 and 14 have been considered but are moot

in view of the new ground(s) of rejection.

Claim Objections

2.   Claim16 objected to because of the following informalities: it is dependent upon a

canceled claim 15 and should be dependent upon independent claim 14. Appropriate correction

is required.

3.   Claim 21 objected to under 37 CFR 1.75(c), as being of improper dependent form for

failing to further limit the subject matter of a previous claim. Applicant is required to cancel the

claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the

claim(s) in independent form. Claim 21 states, "generating the pseudo-live performance by

mixing information corresponding to one or more portions of the needed performance

information with other information" which is also disclosed in the corresponding independent

claim 14.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1, 2, 3-7, 9-10,14, and 16-23 rejected under 35 U.S.C. 102(b) as being

unpatentable by US Patent No. 6,029,045 to Picco et al.

Regarding claim 1, Picco et al. teaches a method for receiving performance information

over a network for generating a pseudo-live performance, the method comprising: detecting a

need for the performance information, wherein the step of detecting a need for the performance

information comprises one or more of: determining a time of a previous information reception

event, detecting a status of a storage device, and accessing a profile (column 2, lines 55-58 and

column 3, lines 21-33 and column 7, lines 33-37 and 41-45 and 49-53 and column 9, lines 26-

28); selecting a process for obtaining the needed performance information; executing the process

for obtaining the needed performance information (column 3, lines 1-13 and column 6, lines 19-

39 and column 8, lines 36-39); and generating the pseudo-live performance by mixing

information corresponding to one or more portions of the needed performance information with

other information (column 2, lines 37-41 and column 9, line 65 through column 10, line 4 and

column 10, lines 13-18 and column 15, lines 8-30).

Regarding claim 14, Picco et al. teaches a pseudo-live performance generator, comprising a controller that: detects a need for performance information by one ore more of: determining a time of a previous information reception event, detecting a status of a storage device, and accessing a profile (column 2, lines 55-58 and column 3, lines 21-33 and column 7, lines 33-37 and 41-45 and 49-53 and column 9, lines 26-28); selects a process for obtaining the needed performance information; executes the process (column 3, lines 1-13 and column 6, lines 19-39 and column 8, lines 36-39); and generates the pseudo-live performance by mixing information corresponding to one or more portions of the needed performance information with other information (column 2, lines 37-41 and column 9, line 65 through column 10, line 4 and column 10, lines 13-18 and column 15, lines 8-30).

Regarding claim 3 and 16, Picco et al. teaches the method of claim 1 and 15, wherein the profile indicates one or more of: a type of information desired by an end-user; a schedule of an end-user; and scheduled times at which information is transmitted by a performance transmitter (column 6, lines 34-40 and column 7, lines 48-54 and column 9, lines 19-23).

Regarding claim 4 and 17, Picco et al. teaches the method of claim 1 and 14, wherein the selecting a process comprises determining whether a performance transmitter can receive an information request (column 3, lines 1-13).

Regarding claim 5 and 18, Picco et al. teaches the method of claim 4 and 17, wherein the determining whether a performance transmitter can receive an information request comprises one or more of: transmitting a query signal to the performance transmitter; passively receiving a signal from the performance transmitter; and accessing a profile (column 3, lines 1-13 and 21-29).

Regarding claim 6 and 19, Picco et al. teaches the method of claim 4 and 17, further comprising: generating an information request; and transmitting the request to the performance transmitter via the network (column 3, lines 1-13 and 21-29).

Regarding claim 7 and 20, Picco et al. teaches the method of claim 1 and 14, wherein the selecting a process comprises determining an appropriate time to receive information from a performance transmitter (column 3, lines 21-29 and column 9, lines 19-27).

Regarding claim 9 and 22, Picco et al. teaches the method of claim 1 and 21, wherein the step of generating the pseudo-live performance comprises: retrieving the other information; decoding one or more tasks instructed by the commands (column 3, lines 1-13 and column 8, lines 36-39 and column 9, line 65 through column 10, line 4 and column 10, lines 13-18).

Regarding claim 10 and 23, Picco et al. teaches the method of claim 9 and 22, wherein the one or more commands includes one or more of programming commands that execute a software program, housekeeping commands that load, delete, change, or overlay stored information, and performance commands that reproduce stored information from one or more specified locations of a storage device (column 3, lines 1-13 and column 8, lines 36-39 and column 9, line 65 through column 10, line 4 and column 10, lines 13-18).

Regarding claim 21, Picco et al. teaches the method of claim 14, further comprising generating the pseudo-live performance by mixing information corresponding to one or more portions of the needed performance information with other information (column 2, lines 37-41 and column 9, line 65 through column 10, line 4 and column 10, lines 13-18 and column 15, lines 8-30).

Conclusion

1.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. The following patent is cited to further show the state of the art with respect to

pseudo-live performances in general: Chaddha, Herz et al., Frerichs et al.

2.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this
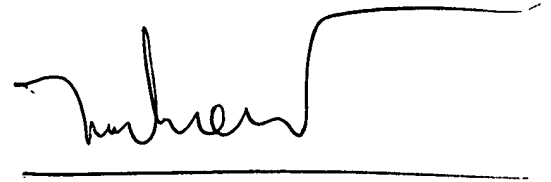
final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to April L Baugh whose telephone number is 703-305-5317. The

examiner can normally be reached on Monday-Friday 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Rupal Dharia can be reached on 703-305-4003. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ALB

LE HIEN LUU
PRIMARY EXAMINER